REMARKS

Upon entry of the present amendment, claim 2 will have been canceled without prejudice and without disclaimer of the subject matter, and claims 1 and 3-7 will have been amended to more clearly recite the claimed subject matter and to enhance the clarity of the claim language, as discussed below. Further, claims 8-11 will have been entered for the Examiner's consideration. More particularly, claim 8 recites a rotatable mount having an image pick-up element attached to one side and defining a convex spherical surface on an opposite side, and a base defining a concave spherical surface that slidably cooperates with the convex spherical surface of the rotatable mount, such that movement of the rotatable mount with respect to the base rotates the sensitive surface around an intersection point between a sensitive surface of the image pick-up element and an optical axis. Claims 9, 10 and 11, which respectively depend from independent claims 1, 7 and 8, recite that the point at which the sensitive surface intersects the optical axis remains stationary with respect to the camera body. Applicant respectfully submits that all pending claims are now in condition for allowance.

In the above-referenced Official Action, the Examiner rejected claims 1, 2 and 7 under 35 U.S.C. § 102(b) as being anticipated by COSNARD et al. (U.S. Patent No. 5,424,835). The Examiner rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over ISHIDA et al. (U.S. Patent No. 6,639,625) in view of *In re Lawson*, 144 U.S.P.Q. 347 (CCPA 1965). The Examiner rejected claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over ISHIDA et al. in view of *In re Lawson*, 144 U.S.P.Q. 347 (CCPA 1965), in further view of *In re Japikse*, 86

U.S.P.Q. 70 (CCPA 1950). Applicant respectfully traverses these rejections, at least for the reasons stated below.

COSNARD et al. teach a movable imaging device 232 on which an image is formed through an objective lens system 231. *See* Fig. 6; col. 5, lines 47-51. However, the imagining device 232 of COSNARD et al. moves only in two dimensions, *i.e.*, it tilts back and forth about an axis 235, indicated by arrows 236. *See* Fig. 6; col. 5, lines 54-56. In comparison, the claimed embodiment of the present invention includes an image pick-up element that is movable, in at least two orthogonal planes, around a point defined by the intersection of the sensitive surface of the image pick-up element and the optical axis of the photographing lens. Claims 1 and 7, as amended, specifically recite that the sensitive surface rotates about the intersection point in at least two orthogonal planes, as opposed to tilting about an axis. Newly entered claim 8 recites a rotatable mount defining a convex spherical surface, which slidably cooperates with a concave spherical surface of a base, such that the sensitive surface rotates about the intersection point in a similar manner. Accordingly, since COSNARD et al. do not disclose each and every element of Applicant's claimed invention, withdrawal of the rejections under 35 U.S.C., § 102(b) based on COSNARD et al. is respectfully requested.

With respect to claims 3-6 and 9-11, Applicant asserts that they are allowable at least because they depend, directly or indirectly, from independent claims 1, 7 and 8, respectively, which Applicant submits have been shown to be allowable.

Furthermore, Applicant respectfully disagrees with the Examiner's reliance on ISHIDA et al., in view of *In re Lawson*, 144 U.S.P.Q. 347 (CCPA 1965) with respect to claims 3-6, as well as

In re Japikse, 86 U.S.P.Q. 70 (CCPA 1950), with respect to claims 5-6. ISHIDA et al. depict a spherical image sensing unit 10 that rotates about a center 0 of the sphere. *See* Fig. 2; col. 6, lines 20-32. The image sensing unit 10 includes a sensing optical unit 11 and an image sensing device 12, which are in fixed relationship with respect to one another. In other words, the position of the image sensing device 12 does not change relative to the sensing optical unit 11, as clearly indicated in Fig. 3. Also, as admitted by the Examiner, the point around which the image sensing unit 10 rotates is not the point at which the optical axis intersects the sensitive surface of the image sensing device 12; rather, it is a point on the optical axis lying between the optical unit 11 and the image sensing device 12.

Neither the rational of *In re Lawson* nor *In re Japikse* render these missing features obvious. In *In re Lawson*, the court determined that use of a brake drum "integral with" clamping means in place of the prior art brake disk "rigidly secured to" clamping means is an obvious design choice. *Id.* at 349. The Examiner applied this to the relationship between the photographing lens and the camera body of the present invention, asserting that Applicant has merely taken multiple pieces and integrated them into a single piece. However, the relationship between the photographing lens (and its optical axis) and the image pick-up element is more significant. ISHIDA et al. show a fixed angular relationship between the image sensing device and the optical axis of the lens, while the present application claims a dynamic relationship between the two. In other words, regardless of whether the photographing lens of the claimed embodiment is integral with the camera body or rigidly secured to the camera body, the image pick-up element moves relative to the optical axis, such that the sensitive surface rotates about the intersection point, which ISHIDA et al. do not show.

Therefore, unlike *In re Lawson*, the present application does not merely claim a single integral component in place of multiple components to perform the same function.

In *In re Japikse*, the court determined that shifting the starting switch disclosed by the prior art to a different position is not inventive since operation of the device would not be modified. *Id.* at 73. The Examiner applied *In re Japikse* to the present invention, stating that Applicant has merely shifted the position of the image sensing element 12 in ISHIDA et al. to the center position 0 of the of the image sensing unit 10. However, such repositioning would merely reduce the distance between the optical device 11 and the image sensing element 12, while the angular relationship between the optical axis and the image sensing element 12 would remain fixed when the image sensing unit 10 rotates. ISHIDA et al. therefore would still differ from the claimed embodiment of the present invention, according to which the sensitive surface tilts or swings with respect to the optical axis. Accordingly, withdrawal of the rejections based on ISHIDA et al., in view *In re Lawson* and *In re Japikse* is respectfully requested.

In view of the herein contained amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of previously asserted rejections set forth in the Official Action of November 16, 2003, together with an indication of the allowableness of all pending claims, in due course. Such action is respectfully requested and is believed to be appropriate and proper.

Any amendments to the claims in this Reply, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions concerning this Reply or the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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